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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/630,443 | 07/30/2003 | Jerry E. Bandstra | 2-5169-049 | 9315 |

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EXAMINER

KOVACS, ARPAD F

| ART UNIT | PAPER NUMBER |
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3671

DATE MAILED: 11/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/630,443 | BANDSTRA ET AL. | |
| | Examiner | Art Unit | |
| | Árpád Fábián Kovács | 3671 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-3, 9-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In re cl. 2, 9, the phrase "other" is unclear what it refers to.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 8, 16, 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClure et al (US20040011016A1).

In re claim 8. An apparatus for crop processing having a processing width defined by a distance between a left side and a right side of a processing unit, the apparatus comprising:

a pickup header that is wider than said processing width (see marked up figure below);

and

an auger on at least one of a right side and a left side of the

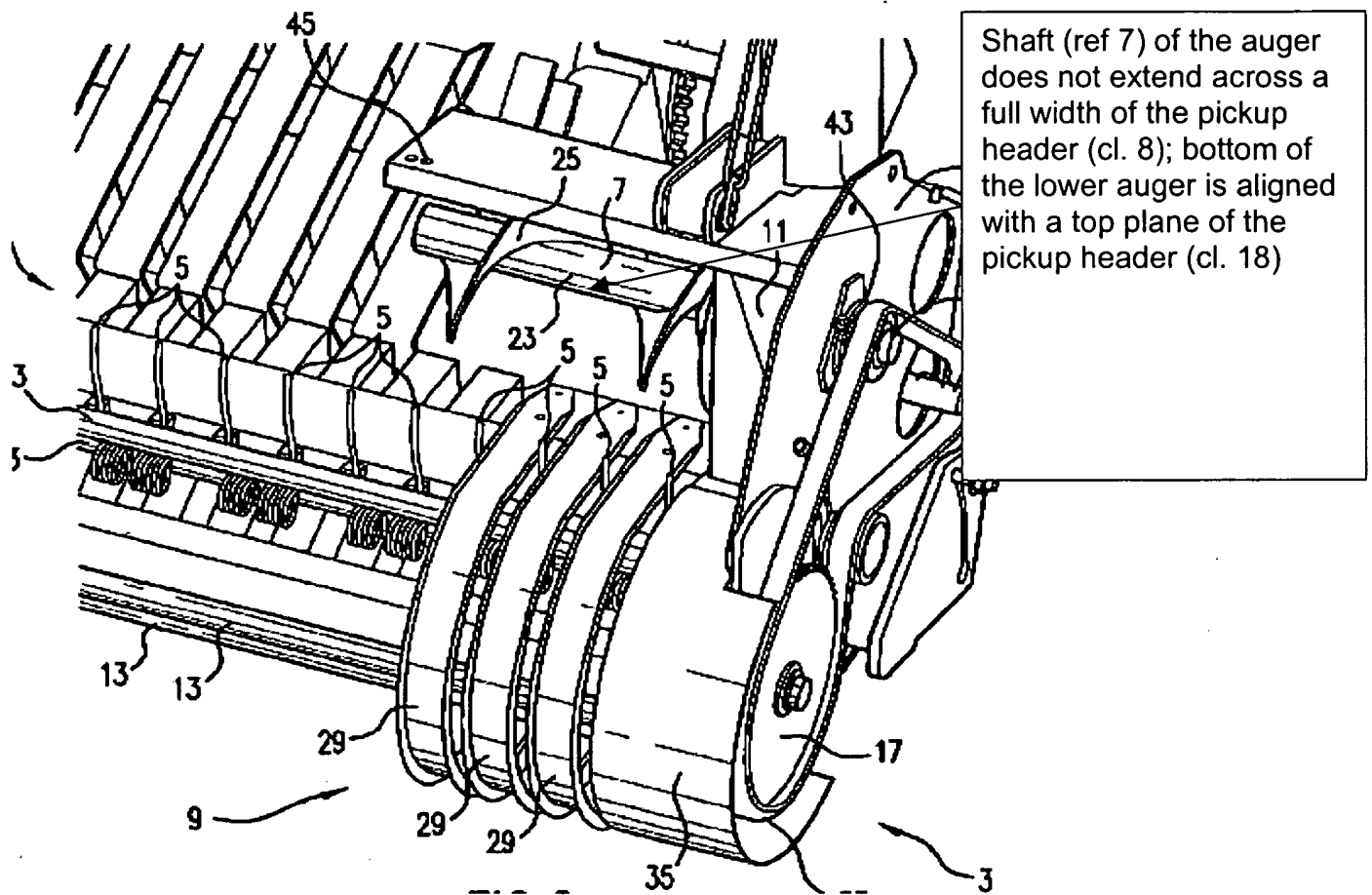
pickup header to move crop material laterally (see marked up fig below).

In re claim 16: wherein the apparatus for crop processing is a large round baler (¶136 ; ref 1).

McClure discloses the claimed invention except for duplicating the right or left augers as claimed.

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to have at least 2 augers on top of each other, since it has been held that mere duplication of the essential parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.



As applied to claim(s) 1, 20-21, in view of the structure disclosed/taught by McClure, the method of operating/using the device would have been obvious since it is the normal and logical manner in which the device is used.

5. Claims 15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClure et al (US20040011016A1), in view of Engel et al (5848523).

McClure does not provide for: the pickup header is not supported by gauge wheels.

Engel anticipates this feature (see fig 1).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize either with or without a gauge wheel support for the pickup header as taught by Engel, in order to make the pickup baler easier.

As applied to claim(s) 17, in view of the structure disclosed/taught by McClure as modified by Engle, the method of operating/using the device would have been obvious since it is the normal and logical manner in which the device is used.

6. Claims 7, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClure et al (US20040011016A1), in view of Grahl et al (6601375).

McClure does not provide for rotational speed of the auger as claimed.

In Grahl: as shown in fig 2, pair of augers on at least one of a right & left sides of the pickup header (4 augers are shown, two on each side), which are driven at different rotational speeds (the upper & lower are driven at different speeds; see fig 5, the sprockets are of different size, and their driven in different rotational direction, for these 2 reasons the speeds are different).

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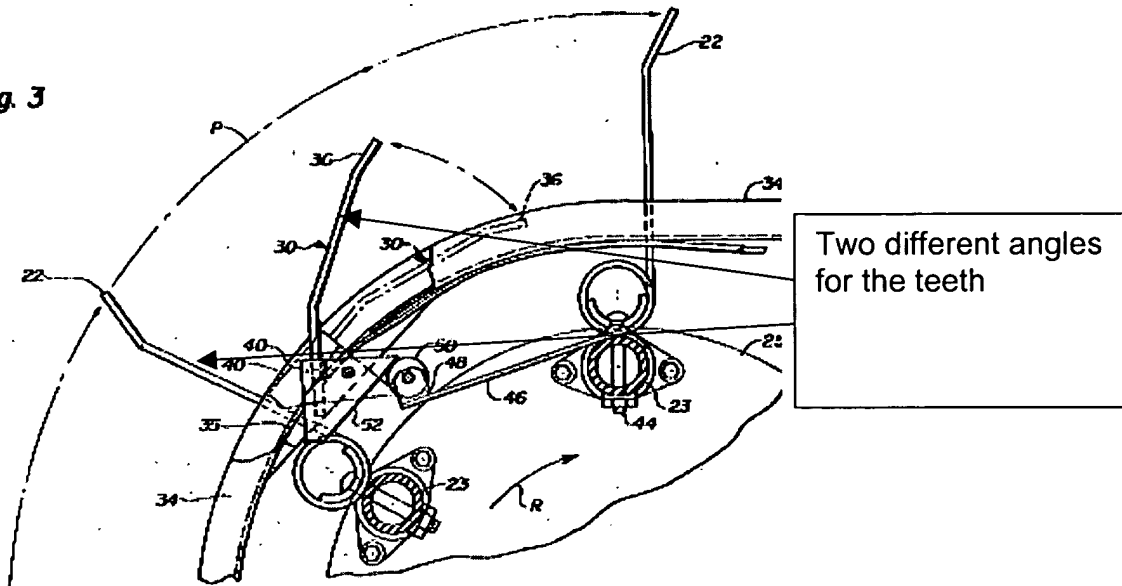
It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize for the duplicate (pair of) augers of McClure different rotational speed as taught by Grahl, in order to increase efficiency.

As applied to claim(s) 7, in view of the structure disclosed/taught by McClure as modified by Grahl, the method of operating/using the device would have been obvious since it is the normal and logical manner in which the device is used.

7. Claims 2-6, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over McClure et al (US20040011016A1), in view of Bohman et al (4929904).

McClure does not appear to show the design choice for the teeth as claimed.

Bohman shows in the figure below that a pickup header can have two different designs.

Fig. 3

It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the teeth of McClure & Bohman having a rigidity claimed, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

It would have been obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to make some of the teeth shaped differently at angle as Bohman shows above, in order to better be able to pickup crop with different lengths.

McClure & Bohman prior art discloses the claimed invention except for arranging the teeth at a specific location on the pickup header. It would have been obvious to one

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having ordinary skill in the art at the time the invention was made to arrange the teeth with different design under the conveyors, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

As applied to claim(s) 2-6, in view of the structure disclosed/taught by McClure as modified by Bohman, the method of operating/using the device would have been obvious since it is the normal and logical manner in which the device is used.

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Response to Arguments

Applicant's arguments with respect to claims 1-²¹~~2~~ have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 703-308-5897. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703 308 3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábián Kovács
Primary Examiner
Art Unit 3671

ÁFK